

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
Implementation of Section 621(a)(1) of)
the Cable Communications Policy Act of 1984)
as amended by the Cable Television Consumer)
Protection and Competition Act of 1992)

MB Docket No. 05-311

COMMENTS OF CITY OF LIVERMORE, CALIFORNIA

These Comments are filed by the City of Livermore, CA in support of the comments filed by the National League of Cities and the National Association of Telecommunications Officers and Advisors ("NATOA"). Like NLC and NATOA, the City of Livermore believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about the facts of video franchising in our community.

Cable Franchising in Our Community

Community Information

The City of Livermore, CA has a population of 78,571. Our franchised cable provider is Comcast Corp. Our community has negotiated cable franchises since 1981.

Competitive Cable Systems

Our community has recently been approached by AT&T (formally SBC) to provide service. In August 2005, AT&T (then SBC), presented a diagram of a utility box and map identifying various locations throughout the City for Project Lightspeed. Since the information presented was promotional rather technical, the City requested AT&T provide additional information for a proper review of projects of similar scope and magnitude. AT&T did not provide any additional information on the project.

Since the advertisements and press releases for Project Lightspeed indicated AT&T's intent to offer video services, the City also communicated with other local cable franchising authorities to see whether they had been approached by AT&T. The cities in the Tri-Valley area (Livermore, Pleasanton, Dublin, San Ramon) share a cable system, and have been working together since the 1980s to jointly negotiate cable franchise agreements (and transfers), and operate its three successful educational and governmental community television channels. Clearly, the mechanism was already in place to streamline discussions with AT&T regarding Project Lightspeed.

In December 2005, AT&T applied for encroachment permits without identifying the relation of the work to Project Lightspeed. When it was discovered that the work was actually a component of Project Lightspeed, the City again requested AT&T provide information on the project, for proper review.

The City of Livermore, along with the other cities in the Tri-Valley area, expressed a desire to meet together with AT&T about Project Lightspeed, however, AT&T declined and is instead meeting with the cities individually, or not at all.

Livermore scheduled a meeting with AT&T in January 2006, which was cancelled by AT&T at the last minute. The City intends to schedule a meeting with AT&T prior to the end of the month. It should be noted that Livermore has mechanisms in place to offer the same or comparable franchise to AT&T or any competitor upon request, and has not denied any provider the opportunity to serve in our community.

Conclusions

The Tri-Valley area is an example of communities working together and collaboratively with video providers. During the last franchise renewal, the Cities of Livermore, Pleasanton, Dublin and San Ramon collectively negotiated with Comcast (formally AT&T), which accelerated the renewal process by addressing common concerns and needs for each of the abutting communities, and ensured the availability of service throughout our communities. Despite the history of success, AT&T has decided to delay the process by choosing to negotiate with each community, separately.

The local cable system franchising process functions well in Livermore and the Tri-Valley area. As the above information indicates, we are experienced at working with cable providers to both see that the needs of the local community are met and to ensure that the practical business needs of cable providers are taken into account.

Local cable franchising ensures that local cable operators are allowed access to the rights-of-way in a fair and evenhanded manner, so that other users of the rights-of-way are not unduly inconvenienced. It is important that rights-of-way uses, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. Specifically, local authorities have a better understanding of their particular conditions related to climate, topography and geography which affect not only a roll-out of service, but also preservation of the City's right-of-way infrastructure. Repeated street cuts tend to lessen the street's life and add to the costs to overlay the streets, which are borne by the local agency as well as the public, who must then deal with the inevitable potholes, traffic inconvenience, and visual impediments from not only the work itself, but also the above-ground cabinets. Local cable franchising ensures that our local community's specific needs are met and that local customers are protected.

Local franchises thus provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. There is no need to create a new Federal bureaucracy in Washington to handle matters of specifically local interest.

Finally, local franchises allow each community, including ours; to have a voice in how local cable systems and service standards will be implemented, and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be available to meet local needs. While these factors vary from community-to-community, they are equally present for new entrants as well as for existing users.

The City of Livermore, therefore, respectfully requests that the Commission do nothing to interfere with local government authority over franchising or to otherwise impair the operation of the local franchising process as set forth under existing Federal law with regard to either existing cable service providers or new entrants.

Respectfully submitted,

CITY OF LIVERMORE

By: Linda M. Barton
City Manager
1052 South Livermore Avenue
Livermore, CA 94550

cc: Mayor and City Council
Cities of Pleasanton, Dublin, San Ramon
National League of Cities, leanza@nlc.org
NATOA, info@natoa.org
John Norton, John.Norton@fcc.gov
Andrew Long, Andrew.Long@fcc.gov
Genevieve Morelos, League of California Cities, gmorelos@cacities.org